

Los Angeles District North Coast Interagency Review Team (NC-IRT)

Meeting Summary, 21 May 2013

Participants (Affiliation):

John Markham (USACE, Regulatory)
Shannon Pankratz (USACE, Regulatory)
Brienne McGuffie (USACE, Regulatory)
Jim Mace (USACE, Regulatory)
Paul Amato (USEPA, Region 9)
Dan Blankenship (CDFW, Region 5)
Joanna Gibson (CDFW, Region 6)
Dave Lawhead (CDFW, Region 5)
Erin Wilson (CDFW, Region 5)
Kate Hucklebridge (California Coastal Commission (CCC))
Jan Zimmerman (Lahontan RWQCB)
Julie Vandermost (VCS Consulting)
Shawn Gatchel –Hernandez (VCS Consulting)
Tim DeGraff (WRA Consulting)
Tracey Brownfield (Land Veritas)
Ward Simmons (Best Best & Krieger)
Shelli Lamb (Riverside Corona Resource Conservation District)
Kerwin Russell (Riverside Corona Resource Conservation District)
Betsey Scheets (Mountains Restoration Trust)

AGENDA

1) Time: 1:00 PM

Petersen Ranch Mitigation and Conservation Bank

Subject: Introduction, delineation and vegetation maps, conceptual mitigation plan design

Proposed Service Area: To be determined

Corps Manager: Brienne McGuffie

Sponsor/Consultants: Land Veritas Mitigation Banks/Vandermost Consulting

Document source: to be provided to IRT members in separate email

2) TIME: 1:45 PM

Elizabeth Lake Mitigation and Conservation Bank

Subject: Introduction, delineation and vegetation maps, conceptual mitigation plan design

Proposed Service Area: To be determined

Corps Manager: Shannon Pankratz

Sponsor/Consultants: Land Veritas Mitigation Banks/Vandermost Consulting

Document source: to be provided to IRT members in separate email

3) TIME: 2:15 PM

Soquel Canyon Mitigation Bank

Subject: Draft Instrument*

Proposed Service Area: To be determined

Corps Manager: Shannon Pankratz

Sponsor/Consultants: Land Veritas Mitigation Banks/Vandermost Consulting

Document source: to be provided to IRT members in separate email

* Please note that the BEI was recently submitted to the Corps, and thus neither the Corps nor the IRT expect to have the opportunity to review this document prior to the upcoming IRT meeting

4) TIME: 3:00 PM

Riverside Corona Resource Conservation District (RCRCD) ILF program

Subject: ILF Instrument Modification, Revised exhibits (addition of Deleo mitigation site)

Approved Service Area: Santa Ana River watershed

Corps Manager: Jim Mace

Sponsor/Consultants: Shelli Lamb/Ward Simmons

Document source: to be provided to IRT members in separate email

5) TIME: 3:45 PM

Mountains Restoration Trust (MRT) ILF program

Subject: Draft Instrument

Proposed Service Area: Santa Monica Bay and Calleguas Creek watersheds, and the headwaters of the Los Angeles River watershed

Corps Manager: John Markham

Sponsor/Consultants: Debbie Bruschaber

Document source: A red-line and "clean" version of this document was distributed to participating IRT members in a May 2, 2013 electronic mail. Please let me know if you would like to receive a copy of this document.

DISCUSSION (see **bold text** for "action items")

I. Petersen Ranch Mitigation and Conservation Bank

a. Sponsor (Introduction):

- i. Approximately 2/3 of watershed drains to Antelope Valley, 1/3 to Santa Clara River. Draft Prospectus submitted to Corps and other IRT members in early May 2013.
- ii. Presented new figures on vegetation communities, draft wetland delineation, and conceptual restoration plan. Propose to perform rehabilitation and enhancement over several phases, including restriction of cattle.
- iii. Site also contains preservation-only permittee responsible mitigation (PRM) (SoCal Edison) in middle of proposed MB, which does not conflict with intent of MB and also may present opportunities for restoration. Currently working on revised Prospectus.

b. General issues raised (by Agencies):

i. USACE:

1. *Comment: **Corps requested that discussion on proposed service area and crediting method be postponed until next IRT meeting.***
2. *Response: N/A*
3. *Comment: Draft prospectus sent to IRT several weeks ago. No responses recorded to date.*
4. *Response: N/A*
5. *Comment: Los Angeles District has several “umbrella”-type (multiple site) MB proposals currently under review, including Port of Los Angeles MB and San Diego Water Conservation Authority MB. However, office of counsel has reservations about developing an umbrella Instrument, preferring an umbrella Agreement (MOA/MOU) with separate, “stand-alone” Instruments for each mitigation site. **Corps MB manager will consult with management and counsel.***
6. *Response: N/A*
7. *Comment: Add description of Edison PRM to revised Prospectus, including on diagrams.*
8. *Response: **Sponsor will revise accordingly.***
9. *Comment: **Corps will provide RIBITS username and password to IRT members in this region in order to allow for viewing of sensitive documents during review process.***
10. *Response: N/A*

ii. USEPA:

1. *Comment: Could sell additional credits at the Edison PRM site, with IRT approval. Recommend reviewing Edison/agency Agreement.*
2. *Response: Comment noted.*
3. *Comment: Continue to engage CDFW at significant milestones, as they are undergoing separate review process.*
4. *Response: Comment noted.*

iii. CDFW:

1. *Comment: **Highly recommend combining Petersen Ranch and Elizabeth Lake Mitigation Banks under an “umbrella” Agreement/Instrument**, in order to reduce cost and duplication of effort, and to “streamline” approval process. CDFW can only work on one bank at a time, and the sponsor has requested Petersen Ranch to be priority over Elizabeth Lake. This may affect upcoming scheduling/timing of bank processing.*
2. *Response: **Corps MB manager and CDFW MB manager will consult with management and counsel.** Sponsor is willing to assist if/when directed.*
3. *Comment: **Sponsor should evaluate their draft CEQA determination** for this proposed MB and the Elizabeth Lake MB, as grading may be*

considered a discretionary activity by the local authorities and thus may not qualify for statutory exemption.

4. *Response*: Comment noted.

iv. Other (Sponsor):

1. *Comment*: Due to anticipated IRT delays (e.g., Corps, CDFW), the sponsor would like to discuss the prospect for using additional portions of this site as PRM until the Instruments are approved, and requests that the topic is added to the June 25 IRT meeting.

2. *Response: Comment noted. Topic (tentatively) added to June IRT agenda. Corps MB manager will consult with management and counsel. Rather than considering “pre-sales”, CDFW may allow stand-alone acquisition of mitigation land, to be later integrated into the bank(s).*

3. *Comment*: Proposed the potential combination of this MB with Elizabeth Lake MB, under one “umbrella” BEI given the close proximity (~2 miles), similar natural features, and same MB sponsor, easement holder, and land manager.

4. *Response*: CDFW agrees with concept. ***Corps and CDFW MB managers will consult with management and counsel.***

5. *Comment: Sponsor will schedule field visit with Jeff Humble (CDFW), and other interested IRT members.*

6. *Response*: Comment noted.

7. *Comment*: Proposed assembling a long term schedule for meeting various bank milestones, for all proposed Land Veritas banks (Petersen Ranch, Elizabeth Lake, and Soquel Canyon).

8. *Response: Sponsor should proceed with developing schedule.*

v. IRT Recommendation(s): See above.

II. Elizabeth Lake Mitigation Bank

a. Sponsor (Introduction):

i. Area drains to Santa Clara River watershed.

b. General issues raised (by Agencies)*:

i. USACE:

1. ***Corps requested that discussion on proposed service area and crediting method be postponed until next IRT meeting.***

2. *Response*: N/A

3. *Comment: Will determine if Prospectus is “complete” (pursuant to 33 CFR 332.8(d)(2)(i-vii)).* Issuance of the prospectus PN is awaiting the Sponsor’s submittal of the adjacent land owners mailing list. Once complete, Prospectus will be distributed via Public Notice.

4. *Response: Sponsor will provide mailing list.*
- ii. CDFW:
 1. *Comment: See comment above regarding CDFW's recommendation for consolidating with Petersen Ranch MB under single Instrument.*
 2. *Response: **Corps MB manager will consult with management and counsel.*** Sponsor is willing to assist if/when directed.
 3. *Comment: **IRT requesting workflow/timeline diagram, if available (similar to Corps Mitigation Rule timeline).***
 4. *Response: N/A*
 5. *Comment: Is there demand for this type of mitigation at this location?*
 6. *Response: (IRT) Yes, based upon location, high functions, restoration potential, adjacent development (including large-scale solar projects), and minimal presence of MB/CB in this watershed*
- iii. Other (Sponsor):
 1. *Comment: See sponsor's comment on Petersen Ranch MB re: use of future, pending MB site for PRM during approval process.*
 2. *Response: Comment noted. **Topic (tentatively) added to June IRT agenda.***
- iv. Other*:
 1. *Comment: See comments under Petersen Ranch MB proposal regarding "umbrella" MB discussion and permittee-responsible mitigation (PRM).*
 2. *Response: **Corps and CDFW MB managers will consult with management and counsel on these topics.***
- v. IRT Recommendation(s): See above.

III. Soquel Canyon Mitigation Bank

- a. Sponsor (Introduction):
 - i. Area drains to Santa Ana River watershed, and periodically to San Gabriel River watershed (via diversion).
 - ii. Draft Instrument (BEI) submitted to all IRT members week of May 13 2013.
 - iii. Presented basic sections of the draft BEI, and suggested that IRT first read over the summary of prior IRT input and corresponding revisions. The LTP and mitigation plan are new documents.
- b. Sponsor is not in agreement with IRT's March 16 2013 version of service area, and would like separate (federal) waters and CDFW-related service areas. At IRT direction, ***sponsor will provide a revised service area map and detailed written "narrative" justification.*** General issues raised (by Agencies):
 - i. USACE:
 1. *Comment: **Will determine if draft Instrument (BEI) is "complete" (pursuant to 33 CFR 332.8(d)(6)(ii-iii)). Once complete, will provide to office of counsel.***

2. *Response:* N/A
 3. *Comment:* **Corps requested that discussion on proposed service area and crediting method be postponed until next IRT meeting.**
 4. *Response:* N/A
 5. *Comment:* For areas that may have overlapping credits (i.e. species and waters), once the sponsor sells one type of credit any others would not also be available for sale (i.e. no double dipping).
 6. *Response:* Comment noted.
 7. *Comment:* The urgency to approve the bank is understood (as a viable investment), but the IRT currently recommends that the Corps/EPA and CDFW processes remain at similar stages even though CDFW's review may require additional time (e.g., allowed 90 days following submission of complete draft Instrument). Corps and EPA do not desire to sign an Instrument that ultimately will be revised per CDFW requirements. There is a strong need for continuous communication between the Corps, CDFW, and the IRT.
 8. *Response:* Comment noted.
- ii. USEPA:
1. *Comment:* Any permittee-responsible mitigation within proposed bank areas could be rolled into the bank once approved.
 2. *Response:* Comment noted.
 3. *Comment:* Corps' Sacramento District has examples of separate service areas for waters and species.
 4. *Response:* Comment noted.
- iii. CDFW:
1. *Comment:* Jeff Brandt and Joanna Gibson will be primary POCs for CDFW.
 2. *Response:* Comment noted.
 3. *Comment:* **Will provide comments to Corps on service area proposed in March 16 2013 email, including prospect of using MB for "species banking", which may contain impact areas falling within Western Riverside County MS-HCP boundary. .**
 4. *Response (Sponsor):* MS-HCP management at the Resource Conservation Authority (RCA) has expressed interest in utilizing this MB. **Sponsor will provide CDFW with their RCA POC(s).**
 5. *Comment:* Currently reviewing Prospectus, and have not had opportunity to review draft Instrument.
 6. *Response:* Comment noted.
 7. *Comment:* Based upon the nature of proposed mitigation (predominantly enhancement, no grading), this MB may qualify for a CEQA notice of exemption, but unsure if the same would hold for the larger Elizabeth Lake and Petersen Ranch proposed banks.

8. *Response:* Comment noted.
- iv. Other (Sponsor):
 1. *Comment:* See sponsor's comment on Petersen Ranch MB re: use of future, pending MB site for PRM during approval process.
 2. *Response: **Corps and CDFW MB managers will consult with management and counsel on these topics. Topic (tentatively) added to June IRT agenda.***
 3. *Comment:* Sponsor requested clarification on possible CEQA exemptions for their banks.
 4. *Response: **CDFW will investigate.***
- v. IRT Recommendation(s): See above.

IV. Riverside Corona Resource Conservation District (RCRCD) ILF program

- a. Sponsor/USACE: Prospectus for first mitigation site (Deleo property) distributed via Public Notice in December 2012. Final Instrument modification submitted to IRT on April 16, 2013.
- b. General issues raised (by Agencies):
 - i. USACE:
 1. *Comment:* No additional comments received from IRT since final version of modification was distributed in April 2013. **Will now send "notice of intent to approve" modification to IRT, pursuant to 33 CFR 332.8(d)(8).**
 2. *Response:* N/A
 3. *Comment:* Corps is also processing a Nationwide Permit No. 27 for the proposed activities at this site. May be beneficial to consider Regional General Permit or programmatic individual permit for similar practices, if it is possible to also secure programmatic 401 certification, ESA (listed species) and NHPA (historic resources) consultations.
 4. *Response:* N/A
 5. *Comment: **Corps will provide comments on guidance document and (9) questions submitted by RCRCD** "Definitions and Examples for Guiding ILFP Credit Assignments for Different Forms of Compensatory Mitigation."*
 6. *Response:* N/A
 - ii. USEPA:
 1. *Comment:* East Contra Costa County ILF Program (Corps' Sacramento District) is currently developing an RGP, which could be used as a model.
 2. *Response:* Comment noted.
 3. *Comment: **Recommend circulating just the signature page (4 originals).***
 4. *Response:* Comment noted.
 - iii. IRT Recommendation(s): See above.

- V. Mountains Restoration Trust (MRT) ILF program
- a. Sponsor/USACE: Existing ILF Program, service area SM Mountains, seeking to expand SA into Calleguas Creek and headwaters to LA River. Provided red-line and clean Draft Instrument to IRT on May 2, 2013. ***IRT comments due June 6, 2013.*** Instrument itself based upon SPD ILF Instrument template and revised Prospectus (v. 5?). ***Sponsor currently working on advance credit calculation for final Instrument.***
 - b. General issues raised (by Agencies):
 - i. USACE:
 - 1. *Comment:* No comments. ***Recommend submission of final version of Instrument to Corps.*** Once determined complete, recommend submission to IRT.
 - 2. *Response:* N/A.
 - ii. IRT Recommendation(s): See above.
- VI. Additional Action Items
- a. ***Corps Los Angeles District to hold internal discussions in early June on method(s) of determining service area and potential credits, then to engage other IRT members. USEPA (Paul Amato) has expressed interest in contributing to the discussion(s).***